IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH

AT BILASPUR (C.G.)

WRIT PETITION NO. 161 OF 2001

(PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA)

PETITIONERS : (1) Galib Memorial Educational Society, Sector-6, Bhilai. (Registered No. 3408) Through, Shri Tahir Khan President, Galib Memorial Educational Society, C Market Sector-6, Bhilai Nagar, Distt. Durg (C.G.).

(2) Mohd. Tahir Khan, Aged about 51 years, S/o Late Shri Ismail Khan, R/o Qr.No. 16-E, Street-30, Sector-7, Bhilai Nagar, Distt. Durg.

P.R. No. 163/1 Presented by Shri Tahir Khan Kr. Thakur dated 5.2.01

V E R S U S

RESPONDENTS : (1) The State of Chhattisgarh, Through, The Secretary, Department of Commerce & Industries, Secretariate (D.K. Bhawan), RAIPUR.

(2) Registrar of Firms & Societies, O/5, Anupam Nagar, T.V. Tower, RAIPUR.

(3) The Asstt.Registrar of Firms & Societies, O/5, Anupam Nagar, T.V. Tower, RAIPUR.

Y.P. GUPTA NOTARY DURG (C.G.) INDIA 13/7/3/2000

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4) Aejazuddin, Aged 48 yrs.,S/o Sumsuddin,R/o Railway Avenue, Qr-5/E, Sector-6, Bhilai Nagar, Distt. Durg (C.G.).

5) Abdul Sahid, Aged 44 years, S/o A.Z.Khan,R/O Qr. 16/B, Street-23, Bhilai Nagar, Distt. Durg.

6) I.A.Javed, S/o S.A.Javed,C/o Apsara Talkies, Distt.Durg.

7) Mohd.Zia, S/o Mohd Razak, R/o SM-49, Padmanabhpur, Durg.

8) S.A. Mabud, S/o not known, R/o MIG 2/98, Hudco Colony, Amdi Nagar, Bhilai, Distt. Durg (C.G.).

9) M.A.Shafique, S/o M.A.Sayeed, R/o Qr.11/B, Street-6, Sector-10, Bhilai Nagar,Durg.

10) Imam Khan, S/o Aliyar Khan, R/o Qr. 4/D, Street-30, Sector-7,Bhilai Nagar, Durg.

11) Jabbar Khan, S/o Nadir Khan, R/o 21/1/ MPHS, Nandini Road, Bhilai Nagar, Distt. Durg.

12) Hafiz Mohd. Haroon, s/o Shri Fazlur Rehman, R/o Camp No.2, Bhilai Nagar, Distt.Durg.

13) M.S.Khan, S/o M.U.Khan, R/o Nizami Chowk, Farid Nagar, Bhilai, Distt.Durg (C.G.).

14) Mohd.Sami Khan, S/o Babban Khan, R/o Ayyappa Nagar, Distt.Durg (C.G.).

15) M.I.Khan,S/o M.U.Khan,R/o 115 LIG,Hudco Colony, Amdi Nagar, Distt.Durg.

16) Mohd.Jalil, S/o Hazrat Ali, R/o Qr.13/B, Street-12,Sector-1, Bhilai Nagar, Distt. Durg (C.G.).

17) Dr.A.Hamdani, S/o Habib Abubakr R/o 31/7, Nehru Nagar (East), Bhilai Nagar, Distt. Durg (C.G.).

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नोटरी - NOTARY
S.P.GUPTA
DURG (C.G.)
INDIA
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18) Mohd. Hanif, S/o Mohd.Karamat, R/o Patel Bakery, Supela, Distt.Durg.

19) Haji Karim Bux S/o Mithu R/o Yatem Khana, Farid Nagar, Bhilai, Distt.Durg (C.G.).

20) M.S.Alam, S/o Mohd.Akhtar, R/o Bihar Boot House, Jawahar Market, Camp No.2, Bhilai Nagar, Distt.Durg.

21) M.Badre Alam, S/o M.A.Abdi, R/o Jawahar Boot House, Jawahar Market, Camp No.2, Bhilai, Distt. Durg.

22) Mahboob Khan, S/o A.Khan, R/o 350, MIG-2, Hudco Colony, Amdi Nagar, Bhilai, Distt. Durg (C.G.).

23) Mohd. Ismail Khan, S/o Not known, R/o Farid Nagar, Bhilai, Distt. Durg.

24) Sheikh Shahbuddin, S/o M.M.Alam, R/o Ayyappa Nagar, Bhilai, Distt.Durg.

25) Abdul Sattar, S/o Idu, R/o Qr.18/B, Street No.29, Sector-5, Bhilai Nagar, Distt. Durg (C.G.).

26) M.A.Saleem, Election Officer, R/o MIG-I/65, Hudco Colony, Amdi Nagar, Bhilai, Distt. Durg (C.G.).

NOTARY - S.P.GUPTA - DURG (C.G.) INDIA - Regd. No. 13/7/3/2000

Petition Under Articles 226/227 of the Constitution of India.

The petitioner, most humbly submits as under:-

1) Particulars of the petitioner :-

As given in the cause-title.

2) Particulars of the Respondents :-

As given in the cause-title.

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P.161/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	8.10.2001 Shri R.N.Tiwari, learned counsel for the petitioner. Dr.N.K.Shukla, Dy.Advocate General for the respondent / State. Shri T.K.Tiwari, learned counsel for the respondents No.17 to 23. Shri Alok Bakshi, learned counsel for the respondents No.4,5,6,8,9,10,12,14,16 to 20, and 22 to 25. Heard. O R D E R The matter concerns election of Office Bearers of an Educational Society. The matter was first examined by Assistant Registrar, ~~that~~ the order impugned in the present petition was issued by the Registrar on 31.1.01. I have heard counsel representing the parties at some length on the question of maintainability of this writ petition, particularly on the ground that ~~in~~ an order passed by the Registrar is appealable to the State Government under section 40 of Madhya Pradesh Society Registrikaran Niyam, 1973. The said provision may be extracted - "40 Appeal(1) An appeal against the order of the Registrar shall lie (a) if the order is made by the Registrar, to the State Government".	

[पीछे देखिये

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

As stated above, the order which has been impugned in this writ petition was issued by the Registrar. It is therefore submitted on behalf of the respondents that the writ petition ought to have approached the State Government if aggrieved by the order of the Registrar.

Shri Rajiv Srivastava, learned counsel for the petitioner submits that the writ petition is entitled to have a remedy found before this Court under Article 226 of the Constitution of India in as much as the order passed by the Registrar, respondent No.2 is without jurisdiction. It may be stated that when the matter was presented before the Registrar it could not have grievance against the order passed by the Assistant Registrar, no such submission was made before the Registrar.

In other words, the question of jurisdiction was not raised before the Registrar. Infact, Registrar examined the entire matter and passed final orders.

Mr.Srivastava submits that the question of jurisdiction can be raised at any stage of the proceedings, even despite the fact that such objection was not raised specifically before the Registrar.

On the whole, remedy which can be available under Article 226 of the Constitution of India is also available before the State Government as far as the merit of the case is concerned, though there may be some difference in the scope and exercise of jurisdiction.

(Ctd...3..)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.161/2001 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	(Contd. order dated 8.10.2001) -: 3 :- If that be so, the petitioner cannot take grievance ~~with~~ that the matter ~~of today~~ should be examined by this Court in exercise of extra-ordinary jurisdiction vested in this Court under Article 226 of the Constitution of India. In this view of the matter I am of the view that without expressing any view on merit, the matter should be disposed of with a direction that the writ petitioner should approach the appellate authority which, in the present case is the State Government. If the writ petition is filed appropriate appeal before the State Government within 15 days from today, delay if any, shall be waived. Since the matter has been kept here for some time it will be fair and reasonable that the State Appellate Authority should decide the appeal expeditiously and preferably within two months from the date of receipt of the order. The interim order passed by this Court shall remain operative within 15 days from today. Sd/- Chief Justice	

ss/-

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